

IN THE DISTRICT COURT OF CHERRY COUNTY, NEBRASKA

THE STATE OF NEBRASKA,
Plaintiff,

vs.

RICHARD J. REISER,
Defendant.

Case No. CR03-5

JUDGMENT OF PROBATION

DATE OF SENTENCING: April 22, 2003.

APPEARANCES:

For plaintiff: Eric A. Scott, Cherry County Attorney.
For defendant: Bill Quigley with defendant.

THIS CASE CAME ON FOR SENTENCING. The Court finds that the defendant was adjudged guilty of the charge(s) of Criminal Attempt of Possession of a Controlled Substance, a Class I misdemeanor, on February 28, 2003. Allocution had: defendant showed no sufficient reason why sentence should not be pronounced.

IT IS THEREFORE ORDERED AND ADJUDGED that the defendant is hereby sentenced to Probation for a period of two years from and after the commencement of probation under the supervision of a State Probation Officer. The term of probation shall be deemed to commence upon the first to occur of the following: (1) defendant's acceptance in writing of the conditions of probation, (2) the expiration of 30 days from the date of entry of this judgment if no appeal is taken, or, (3) the entry of judgment upon the mandate of the appellate court if appeal is timely perfected within 30 days after the date of entry of this judgment. As conditions of probation, the defendant shall:

1. Not violate any laws, and refrain from disorderly conduct or acts injurious to others.
2. Avoid social contact with those persons having criminal records or who are on probation or parole.
3. Report to your probation officer in person as required by the probation officer, at such reasonable times and places to be fixed by the probation officer. If the

defendant is arrested or cited for any violation of law, report such arrest or citation to the probation officer by the next working day.

4. Truthfully answer questions and allow the probation officer to visit you at all reasonable times and places. Generally cooperate with the reasonable requests of the probation officer for information. Show ordinary business courtesy toward the probation officer.
5. Obtain permission from this court or the probation officer before any change of address or employment.
6. Submit, from time to time, to any reasonable search and seizure of premises, person or vehicle, with or without probable cause, by or upon request of the probation officer or any law enforcement officer.
7. Concerning alcohol and drugs:
 - A. Not use or possess any alcoholic liquor or beverages.
 - B. Not use or possess any controlled substance except when prescribed by a licensed physician.
 - C. Submit to the following tests and examinations:
 - (1) Roadside sobriety test;
 - (2) Alco-sensor test;
 - (3) Chemical test for alcohol or drug content of your blood, breath or urine; and/or,
 - (4) Tests to determine the loss of mental function or physical agility due to the use of alcohol or drugs.
 - (5) Such tests may be administered at any time and from time to time, with or without probable cause, upon request of the probation officer, or any law enforcement officer.
 - D. Pay to the clerk of the sentencing court \$120.00 (based upon \$5.00 per month) for chemical testing while on probation, to be paid by December 31, 2003. If additional testing is required by this judgment which is not included in the standard fee above, pay to the clerk of the sentencing court the actual cost of such testing as certified by the probation officer from time to time.
 - E. Attend mandatory drug abuse treatment and counseling conducted by one of the community mental health facilities authorized by Chapter 71, article 50, of the Nebraska Revised Statutes, or other licensed drug treatment facility. (§ 28-416(14))

8. Pay for the costs of any tests, evaluations, treatments, counseling, programs, classes, courses, meetings, or exercises required under the terms of this judgment or as required by the probation officer as a part of the administration of the terms of probation.
9. The defendant shall perform 200 hours of community service within one year after the commencement of probation and shall provide written verification of such completion from the agency or agencies to the probation officer by such date. Within 60 days after commencement of probation, the defendant shall propose one or more suitable and qualified agencies for whose benefit the service is to be performed, which shall be subject to the approval of the probation officer. Not more than 13 months after the commencement of probation, the probation officer shall file written notice with the court clerk of the total number of verified hours of community service performed by the defendant, which shall be used to determine the jail credit specified below.
10. The defendant is sentenced to 90 days, less 20 days credit for time served before sentencing, in the Cherry County Jail, to be served on consecutive days commencing on November 1, 2004, as follows:
 - A. The jail sentence is not subject to waiver.
 - B. The defendant shall be entitled to a credit against the jail sentence of ten hours for each hour of community service timely performed and verified as required by the preceding condition. Such credit would allow the defendant to fully satisfy the jail sentence by full and timely performance of the community service requirement.
 - C. The sentence is subject to reduction under Neb. Rev. Stat. § 47-502. Assuming no good time for which defendant is eligible is lost, the defendant must serve 62 days, less 20 days credit for time served before sentencing, on the sentence before mandatory release.
 - D. Commitment to the Cherry County Jail shall issue at least 10 days prior to the scheduled commencement date by the clerk of the court, under seal, in form to be submitted by the county attorney.
 - E. The defendant shall appear and surrender to the sheriff for execution of sentence at the time for commencement of this portion of the sentence. Failure to appear and surrender shall constitute a violation of probation, with such consequences as may be imposed by law, and may further result in a separate prosecution for the crime of Failure to Appear, with a separate and additional penalty, and may also result in the issuance of a bench warrant.

11. No restitution was sought by the plaintiff.
12. Pay to the clerk of the sentencing court the costs of prosecution taxed in the amount of \$_____, to be paid by December 31, 2003.
13. Pay to the clerk of the sentencing court, for disbursement to Cherry County for partial reimbursement of the cost of defense counsel, the sum of \$550.00, to be paid by December 31, 2004.

IT IS FURTHER ORDERED AND ADJUDGED that during the term of this probation, the Court, upon application of the probation officer or the defendant, or upon its own motion, may modify or eliminate any of the above conditions or add further conditions.

BY THE COURT:

William B. Cassel, District Judge

I hereby accept probation and agree to abide by all the conditions of probation ordered by the court. Any violation of the above conditions is cause for revocation of my probation and may result in a sentence to confinement and/or other authorized punishment. I do hereby waive extradition to the State of Nebraska if, at the time of my apprehension, I am in another state. If probation supervision is transferred to another state, I do hereby agree to abide by additional rules and regulations that may be imposed by the receiving state.

I received a copy of the above judgment on _____, 2003.

Defendant